

L. H. MARTIN

MAY 14, 1942.—Ordered to be printed.

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 2934]

The Committee on Claims, to whom was referred the bill (H. R. 2934) for the relief of L. H. Martin, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 634, Seventy-seventh Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 634, 77th Cong., 1st sess.,

The Committee on Claims, to whom was referred the bill (H. R. 2934) for the relief of L. H. Martin, having considered the same, report favorable thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Line 6, after the word "of" strike out the remainder of bill, insert in lieu thereof—

"\$3,284.50 in full settlement of all claims against the United States for injuries sustained when the truck in which he was riding collided with an ambulance operated by the Civilian Conservation Corps, near Tipton, North Carolina, on July 19, 1938: *Provided*, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary, notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

The purpose of the legislation is to pay the sum of \$3,284.50 to L. H. Martin, of Clay County, N. C., in full settlement of all claims against the United State for injuries sustained when the truck in which he was riding collided with an ambulance operated by the Civilian Conservation Corps, near Tipton, N. C. on July 19, 1938.

STATEMENT OF FACTS

The facts in this case are that on July 19, 1938, at about 2:15 p. m., a Chevrolet dump truck of the North Carolina State Highway and Public Works Commission, operated by an employee of that commission, with L. H. Martin, also an employee of the commission, as a passenger, was proceeding in an easterly direction approaching a curve on United States Highway No. 19, near Tipton, N. C., at a speed of about 28 or 30 miles per hour. At about that time a Government ambulance, operated in connection with the Civilian Conservation Corps, was proceeding in the same direction to the rear of the commission's dump truck at a speed of about 30 miles per hour. The Government ambulance overtook the highway commission truck. The driver of the Government ambulance sounded his horn, turned to the left side of the center of the highway, and proceeded to pass the highway truck, which had turned to the right side of the highway. When the Government ambulance was about half-way past the highway truck an unidentified car, approaching in the opposite direction at a high rate of speed, rounded the curve about 100 feet ahead. The Government driver first started to slow down and fall in line behind the truck, but decided that the approaching car would hit the ambulance before it could get back in line, and, upon second decision, tried to get in front of the highway truck. He turned the Government ambulance to the right too soon in front of the highway truck, and the right rear fender of the Government vehicle struck the left front side of the truck, causing it to leave the road and overturn, thereby causing the personal injuries to L. H. Martin.

The War Department admits the negligence of the driver of the Government ambulance, and recommends the enactment of legislation to compensate Mr. Martin in such amount as the Congress, in its discretion, may deem proper to allow, and your committee is of the opinion that the sum of \$3,284.50 should be paid Mr. Martin to compensate him for his injuries received in this accident.

Appended hereto is the report of the War Department, together with other pertinent evidence.

WAR DEPARTMENT,
Washington, March 16, 1940.

HON. AMBROSE J. KENNEDY,
Chairman, Committee on Claims,
House of Representatives, Washington, D. C.

DEAR MR. KENNEDY: Careful consideration has been given to the bill H. R. 8607, Seventy-sixth Congress, third session, for the relief of L. H. Martin, which you transmitted to the War Department under date of February 23, 1940, with request for information and the views of the Department relative thereto.

The purpose of the proposed legislation is to pay to L. H. Martin, of Clay County, N. C., the sum of \$5,000, as full compensation for injuries sustained by him when the truck in which he was riding was struck by an ambulance, operated in connection with the Civilian Conservation Corps, on United States Highway No. 19, near Tipton, N. C., on or about July 19, 1938.

On July 19, 1938, at about 2:15 p. m., a Chevrolet dump truck of the North Carolina State Highway and Public Works Commission, operated by Garnett Galloway, an employee of the commission, and with L. H. Martin, an employee of the commission, as a passenger, was proceeding in an easterly direction approaching a curve on United States Highway No. 19, near Tipton, N. C., at a speed of about 28 to 30 miles per hour. At about this time, a Government ambulance, operated in connection with the Civilian Conservation Corps, on official business, was proceeding in the same direction on the above-mentioned highway to the rear of the commission's dump truck at a speed of about 35 miles per hour.

The Government ambulance overtook the commission's truck. The Government driver sounded his horn, turned to the left side of the center of the highway, and proceeded to pass the commission's truck, which had turned to the right side of the highway. When the Government ambulance was about half-way past the commission's truck an unidentified car, approaching in the opposite direction at a high rate of speed, rounded the curve from 150 to 200 feet ahead. The Government driver first started to slow down and fall in line behind the truck, but decided

that the approaching car would hit the ambulance before it got back in line, and, upon second decision, tried to get in front of the commission's truck. He turned the Government ambulance to the right too soon in front of the commission's truck, and the right rear fender of the Government vehicle struck the left front side of the truck, causing it to leave the road and overturn, thereby causing the personal injuries complained of.

No claim has been presented to the War Department by Mr. Martin, and the Department has no record of the medical and hospital expenses incurred. The State commission submitted a claim for property damage to its truck in the amount of \$267.98, which was approved by the Department and paid on August 24, 1939. During the investigation of that claim, Mr. Martin testified that his right wrist was severely cut; that his right arm was broken in two places; and that a head injury and his right shoulder give him trouble. He further testified that he is being given treatment by the North Carolina Compensation Commission.

It is the view of the War Department that the proximate cause of the accident was the negligence of the Government driver in that he attempted to pass the truck in which Mr. Martin was riding when there was not sufficient clear distance ahead to assure that such a movement could be accomplished in safety, and was forced by a car approaching from the opposite direction to turn back to his right side of the road too soon, thereby colliding with the commission's truck.

Under the circumstances, the War Department will interpose no objection to the enactment of legislation to compensate Mr. Martin in such amount as the Congress, in its discretion, may deem proper to allow.

Sincerely yours,

HARRY H. WOODRING,
Secretary of War.

STATE OF NORTH CAROLINA,
County of Clay:

L. (Lester) H. Martin, being first duly sworn, deposes and says that affiant is 55 years of age, having been born in Clay County, N. C., on February 9, 1884, where affiant has since resided and retained his citizenship.

That on July 19, 1938, at about 2:30 p. m., affiant while riding in the cab of a Chevrolet truck, the property of the State Highway and Public Works Commission of North Carolina, with the driver of said truck, viz, Garnette Galloway, another employee of said highway commission, on trip from Hayesville, N. C., to Bryson City, N. C., by way of Murphy, Andrews, and Topton, N. C., after a truckload of drain pipe being placed in farm to market roads being built by Work Projects Administration and said highway commission, affiant was seriously and permanently injured by reason of the truck in which affiant was riding being run out of the road and turned over by a Civilian Conservation Corps ambulance stationed at Camp N. C. F-24, Robbinsville, N. C., driven by one Julian Harrell, enrollee of said corps, and accompanied by Dr. G. A. Andrews, also stationed at said camp; that said wreck took place about 1½ miles west of Topton, N. C., on United States Highway No. 19; that the truck in which affiant was riding was traveling east on said road approaching a curve within about 50 feet of said curve, at which time said truck was meeting an automobile traveling west coming out of said curve, when suddenly said ambulance traveling at a speed of approximately 50 miles per hour pulled up beside the truck in which affiant was riding, said ambulance also traveling east, at which time truck in which affiant was riding was just entering said curve; that said ambulance then apparently in order to avoid head-on collision with the car which said truck and ambulance were meeting, pulled into truck in which affiant was riding, knocking same out of the highway and upsetting same, causing same to turn over and wreck and seriously and permanently injuring affiant.

That affiant received serious and permanent injuries as a result of the careless and reckless driving on the part of said ambulance driver Julian Harrell, the said ambulance at said time not being used to make a call or engaged in any emergency trip, but merely returning to its station empty except for the driver and doctor accompanying same.

That affiant as a result of said wreck received a double fracture of his right arm, lacerations of right hand and wrist with said hand and arm being considerably crushed, cut on forehead, loss of nine teeth, injury to back, head, and neck, and was generally shaken up and bruised and that since, eyes of affiant have been affected; that affiant has been left with considerable permanent injuries to his right hand and arm same being stiff and rigid and that affiant received permanent

injuries to his head, neck, and back, and eyes; that affiant has suffered great bodily pain as a result of said injuries, said suffering was acute for a number of months, and that up to the present time affiant is unable to rest and sleep normally as a result of said injuries, having to wear two pair of gloves on his right hand suffering from pain by said hand becoming cold for lack of circulation and that affiant has lost the normal use and function of said right hand and arm and is unable to write or sign his name with the same as customarily.

That following said collision and receiving of said injuries the said ambulance returned to the scene of the wreck, as affiant has been since advised, and carried affiant to Andrews, N. C., from which point friends of affiant had affiant placed in taxi and carried to Petrie Hospital at Murphy, N. C., where affiant received medical aid and treatment under the care of Dr. W. A. Hoover; that affiant was on the same day carried to his home near Hayesville, N. C., to await development of the extent of his injuries; that affiant was carried back and admitted to said hospital for treatment on July 21, 1938, where affiant remained until July 30, 1938; and that affiant returned from time to time for treatment to said hospital, to wit: on August 1, 3, 6, 9, 12, 16, 20, 24, 31, September 9, October 1, and November 1 in the year 1938; that on October 25, 1938, affiant went to Dr. O. L. Miller, Medical Arts Building, 121 West Seventh Street, Charlotte, N. C., for examination and treatment and returned to Dr. Miller on November 14, 1938, for treatment remaining under the care of Dr. Miller in Charlotte until November 30, 1938, when affiant was dismissed temporarily, returning for examination and treatment on January 11 and 12, March 7, and September 21, in the year 1939 with instructions to return 6 months from the last date for further examination;

That at the time of the collision aforesaid the said Julian Harrell, Civilian Conservation Corps enrollee, driver of said ambulance aforesaid, was driving in a negligent and careless and reckless manner at a speed of approximately 50 miles an hour in violation of the laws of the State of North Carolina; that the said driver further violated the laws of said State in failing to observe the rules of the road prescribed as to the meeting, passing, and overtaking vehicles and in attempting to meet, pass, and overtake a vehicle, and make a curve at an unlawful rate of speed and drove in a careless, heedless, and reckless manner in willful and wanton disregard of the rights or safety of others and without due caution and circumspection and at such a speed and in such a manner as to endanger the life and property of others, the said ambulance not then being used or occupied in any emergency or other call or to render any service, which negligent and unlawful operation of said motor vehicle by the said Julian Harrell as aforesaid was the proximate cause of the injuries received by affiant and said injuries were not received by reason of the negligence of any other person; that E. B. Quinn, Jr., State highway patrolman of the highway patrol of the State of North Carolina investigated said wreck and caused warrant to be issued for the arrest of the said Julian Harrell and that at hearing duly held at which affiant testified and, also Garnette Galloway, attended by said State highway patrolman and Grover Mauney, assistant engineer of division E, of the State highway department over this area at which time the said Julian Harrell was bound over to answer on the charges preferred against him in the Superior Court of Cherokee County, N. C., in which said wreck occurred and that affiant, said Galloway, patrolman, and Mauney attended the superior court in said county of Cherokee when a true bill was returned against the said Julian Harrell growing out of said wreck and also attended thereafter as a witness in said matter, but that as affiant is informed, advised and believes the said Julian Harrell has fled the jurisdiction of the courts of the State of North Carolina to avoid trial and has not appeared to stand trial on the charges preferred against him as more fully shown by a certified copy of the warrant, bill of indictment, and other papers in the criminal action entitled *State v. Julian Harrell*, accompanying this affidavit and by this reference made a part hereof as an exhibit and evidence of affiant in this matter;

That as affiant is advised, informed, and believes the War Department or Government agency handling such matters has paid the State Highway and Public Works Commission of the State of North Carolina \$270 to cover the property damages to the truck of said highway commission that was wrecked and damaged in said collision herein referred to in which affiant was riding at the time affiant received the injuries aforesaid by reason of the negligence of the said Julian Harrell;

That affiant, prior to receiving said injuries, was a strong and healthy man, able to handle various types of heavy road and farm machinery and to do hard manual and physical labor and through the use of his labors, hands and arms, has always been able to do considerable farm work and hold down other jobs thereby earning

a comfortable living for the support and comfort of himself and family and never knew what it was to be nervous, lose sleep, or not feel well and strong; that affiant was totally unemployed from July 19, 1938, until March 27, 1939, and that affiant cannot now do the labor and perform the duties that he formerly could do and perform, and is unable to handle machinery and do other operations as formerly, nor is affiant able to do the extra work upon and around the farm owned by affiant as formerly, thereby reducing his earning capacity all by reason of the serious and permanent injuries so received by affiant as aforesaid; that affiant suffered acute and extreme physical pain for months by reason of said injuries so received being unable to rest or sleep and that affiant is still unable to rest and sleep comfortable as he usually could theretofore, and that affiant generally does not feel well and strong as he always did prior to receiving said injuries as aforesaid, his physical and nervous system having been generally impaired thereby, and suffers from said arm, his head, neck, and back at the present time;

That affiant's said injuries, as he is informed, advised, and believes, are permanent, and by reason of said injuries plaintiff has been greatly damaged, to wit, in the sum of \$5,000.

L. H. (his X mark) MARTIN.

Witness as to making mark: P. C. Scroggs, Lois Kitchens.

I, P. C. Scroggs, a notary public in and for the county of Clay, State of North Carolina, do hereby certify that L. (Lester) H. Martin, with whom I am personally acquainted, personally appeared before me this day and duly signed his name to the foregoing and annexed affidavit by making his mark in my presence and made oath that the foregoing statements are true, except those stated upon information and belief and, as to those, he believes same to be true.

Witness my hand and notarial seal, this January 31, 1940.

[SEAL]

P. C. SCROGGS, Notary Public.

My commission expires June 17, 1941.

NORTH CAROLINA,
Cherokee County:

STATE v. JULIAN HARRELL

I, J. W. Donley, clerk of the Superior Court of Cherokee County, N. C., do hereby certify that I have examined the docket entries appearing upon the criminal dockets of record in my office in the above-entitled action, wherein the defendant, Julian Harrell, was charged with reckless driving on or about the 19th day of July 1938, and that, from an examination of said criminal dockets and the entries and proceedings thereon with reference to the above-entitled proceeding, I find the following entries entered upon the minute docket of this court at the book and page and on the dates hereinafter set forth:

Minute docket T, page 689, November term, 1938, entry November 12, 1938, No. 131, *State v. Julian Harrell*, reckless driving, continued; Felix E. Alley, judge presiding.

Minute docket U, page 11, spring term, 1939, entry April 4, 1939, No. 102 *State v. Julian Harrell*, reckless driving, defendant called and failed, judgment nisi, sci. fa. and capias, instant process; Zeb V. Nettles, judge presiding.

Minute docket U, page 104, August term, 1939, entry August 7, 1939, No. 80, *State v. Julian Harrell*, reckless driving, alias capias and continued; A. Hall Johnson, judge presiding.

Minute docket U, page 179, November term, 1939, entry November 6, 1939, No. 63, *State v. Julian Harrell*, reckless driving, alias capias and continued; J. Will Pless, Jr., judge presiding.

Minute docket U, page 77, April term, 1939, entry April 11, 1939. Sci. Fa. Docket No. 20, *State v. Julian Harrell and Joseph L. Auten* (surety), scire facis, alias, sci. fa. and continued; Zeb V. Nettles, judge presiding.

Minute docket U, page 167, August term, 1939, entry August 12, 1939, Sci. Fa. Docket No. 5, *State v. Julian Harrell and Joseph L. Auten* (surety), scire facis, alias sci. fa. and continued; A. Hall Johnson, judge presiding.

Minute docket U, page 229, November term, 1939, entry November 15, 1939 Sci. Fa. Docket No. 5, *State v. Julian Harrell, and Joseph L. Auten* (surety), alias sci. fa. and continued; J. Will Pless, Jr., judge presiding.

Witness my hand and official seal, this the 22nd day of January 1940.

[SEAL]

J. W. DONLEY,
Clerk Superior Court, Cherokee County, N. C.

NORTH CAROLINA,
Clay County:

I, Garnet Galloway, first duly sworn deposes and says that he is 41 years of age and a citizen and resident of Clay County, N. C.; that affiant is personally acquainted with Lester or L. H. Martin, of said county and State; that affiant is employed by the State Highway and Public Works Commission of the State of North Carolina as a truck driver and other such duties; that on July 19, 1938, affiant, accompanied by L. H. Martin, made a trip in his Chevrolet State highway truck from Hayesville, N. C. by way of Murphy, N. C. and Andrews, N. C. over State Highway No. 10, U. S. No. 19, expecting to go to Bryson City, N. C. for the purpose of securing and returning with a load of drain pipe;

That when affiant arrived at a point about 1½ miles west of Topton on said highway at about 2:30 o'clock in the afternoon on said date, traveling at a reasonable rate of speed, just before entering the curve on said highway affiant observed a car meeting him within about 50 feet of said curve, as the said automobile which he was meeting came out of the curve an ambulance connected with the Civilian Conservation Corps at Camp, N. C.-F-24 Robinsville, N. C., driven by one Julian Harrell, enrollee of said corps and accompanied by Dr. G. Andrews, also stationed at said camp, as affiants learned after the wreck, suddenly pulled up and attempted to pass affiant, traveling at a rate of speed of apparently 50 miles per hour that said driver of said ambulance apparently observed plight, attempting to pass affiant on a curve with another car approaching and that unless the driver of said ambulance crowded affiant he was driving out of the highway that he would have a hit-on collision with the car that was approaching that the said ambulance crashed into and against the truck driven by affiant, knocking same out of the highway and overturning same, badly damaging the truck driven by affiant and seriously injuring the said L. H. Martin who occupied the cab of said truck driven by affiant

That affiant was unable to avoid the collision and that said collision was without the carelessness or negligence on the part of the affiant and by reason of the carelessness and recklessness of the Civilian Conservation Corps ambulance driver, the said Julian Harrell; that affiant was only slightly injured or shaken up as a result of said collision and did not receive any serious or permanent injuries; that affiant has been personally acquainted with the said L. H. Martin for a number of years and knows of his own knowledge that prior to the time of the accident that the said L. H. Martin was a strong, healthy man, able to perform most any physical labor, could operate and drive heavy duty road machinery and to plow, and do any general farm work; that since said injuries affiant has observed said Martin frequently from time to time and knows that from said observation that the right hand and arm of the said L. H. Martin, as a result of injury received in said wreck, has been seriously and permanently injured and impaired; that the said L. H. Martin is unable to use his right hand or arm and has lost the normal use thereof; that affiant has heard the said L. H. Martin state from time to time since receiving said injury that he, the said L. H. Martin was suffering and could not rest and sleep normally as a result thereof, the said L. H. Martin's hand, arm, back, neck, head, and shoulders having pain and discomfort thereof and to affiant's personal knowledge of the said L. H. Martin, aside from his loss of the physical function of his arm and body by reason of said injuries, also still suffers therefrom.

GARNETT GALLOWAY.

Subscribed and sworn to before me this the 24th day of January 1940.

[SEAL]

P. C. SCROGGS, *Notary Public.*

My commission expires June 17, 1941.

NORTH CAROLINA,
Clay County:

Fred D. Pass being first duly sworn deposes and says that he is 58 years of age and is a citizen and resident of Clay County, N. C.; that affiant is Work Projects Administration supervisor for Clay County, N. C.; that affiant is personally acquainted with L. H. Martin of route 4, Hayesville, N. C., having known the said L. H. Martin for a number of years; that as Work Projects Administration supervisor in connection with the farm-to-market road projects in Clay County sponsored by the State Highway and Public Works Commission and built cooperately by Work Projects Administration and said highway commission, the said L. H. Martin having been employed by the latter affiant has had occasion to

come in frequent contact for the past 5 years with the said L. H. Martin in his work; that prior to July 19, 1938, affiant had observed the said L. H. Martin driving road machinery and performing other labor and knows that the said L. H. Martin was a strong and healthy man; that affiant learned of the injuries received by the said L. H. Martin in an automobile wreck on or about July 19, 1938, and knows that for months the said L. H. Martin was unable to perform any labor; that affiant has recently observed the said L. H. Martin and knows from said observation that the said L. H. Martin as a result of the injuries he received has been left with considerable permanent injuries and particularly in regard to his right hand and arm and affiant knows that the said L. H. Martin as a result thereof is unable to use his right hand and arm in a normal manner; that affiant observed the said L. H. Martin complained from time to time from the pain he has suffered as a result of said injury; that the said L. H. Martin is a man of good character, conscientious, and well thought of in his county and that in the opinion of affiant the said L. H. Martin has been greatly damaged by reason of said injuries.

FRED D. PASS.

Subscribed and sworn to before me this the 31st day of January 1940.

[SEAL]

P. C. SCROGGS,
Notary Public.

My commission expires June 17, 1941.

NORTH CAROLINA,
Clay County:

E. C. Mease, being first duly sworn deposes and says that he is 66 years of age and a citizen and resident of Clay County, N. C.; that affiant was for a number of years a registered land surveyor and for several years has acted as assistant postmaster of the Hayesville, N. C., post office; that affiant has resided for a number of years upon a nearby farm upon which Lester or L. H. Martin of route 4, Hayesville, N. C., resided; that affiant has had occasion to observe, see, converse, and work with the said L. H. Martin from time to time for a number of years as customary among neighbors; that affiant learned of the wreck or collision on July 19, 1938, near Tipton, N. C., in which Mr. Martin was injured the evening following same and visited and saw Mr. Martin while his said injuries were causing him the most pain and suffering during the time following his injury; that affiant as a layman could observe that the said L. H. Martin was suffering for a long time seriously and very painfully from his injuries complaining of being unable to rest or sleep and having to stay awake nights from his suffering by reason of the painful wounds and injuries so received; that for months affiant did not do any work of any kind and since returning to work only does light work not requiring much physical exertion or the use of right hand or arm and that to the personal knowledge of affiant the said L. H. Martin is still unable to use his right arm and hand and otherwise do the physical work and labor that he was theretofore able to perform and that the injuries so received appear to have left the said L. H. Martin with serious and permanent injuries that will afflict the said Martin during the remainder of his life diminishing and shortening his earning power and possibly his life, and that in the opinion of affiant by reason of said injuries the said L. H. Martin has been damaged to the extent of \$5,000.

E. C. MEASE.

Subscribed and sworn to before me this the 24th day of January 1940.

[SEAL]

R. C. SCROGGS, Notary Public.

My commission expires June 17, 1941.

NORTH CAROLINA,
Clay County:

L. D. Rhinehart, being first duly sworn, deposes and says that he is 53 years of age and a citizen and resident of Clay County, N. C.; that affiant is by occupation a farmer and registered land surveyor; that affiant is personally acquainted with L. H. Martin of route 4, Hayesville, N. C., having married a sister of the wife of Mr. Martin and that affiant owns farm adjoining the farm of L. H. Martin, the home of affiant being within about 200 yards of the home of the said L. H. Martin where said parties resided on July 19, 1938, and a number of years prior thereto; that affiant saw the said L. H. Martin upon the morning of July 20, 1938, at the

home of the said L. H. Martin; that the said L. H. Martin was at that time suffering from injuries to his head and right arm and neck and back, being able to observe that the said L. H. Martin had a crushed arm and wounds on his head; that affiant visited the said L. H. Martin almost every day and some days several times during the same day over a period of several months to render such assistance to the said L. H. Martin and his family as affiant could, the said L. H. Martin suffering great bodily pain and suffering from said injuries, being unable to perform any labor or even to sleep and rest, his pains were so great for a long period of time; that affiant also visited the said L. H. Martin during the period he received treatment at the Petrie Hospital at Murphy, N. C.; that the said L. H. Martin still complains from the injuries he received to his arm, head, neck, and back and still suffers therefrom and that it is plainly apparent that the said L. H. Martin has received considerable permanent injuries that will limit his usual physical ability and functions during the remainder of his life; that prior to receiving said injuries the said L. H. Martin was a strong and healthy man and able to perform a hard day of most any type of physical labor on his farm and on such jobs as he had or usually secured and that in the opinion of affiant the said L. H. Martin has been damaged in the sum of \$5,000.

L. D. RHINEHART.

Subscribed to and sworn to before me this the 30th day of January 1940.

[SEAL]

P. C. SCROGGS, *Notary Public*

My commission expires June 17, 1941.

NORTH CAROLINA,
Clay County:

I, Allen J. Bell, being first duly sworn, deposes and says that he is 43 years of age and a citizen and resident of Clay County, N. C.; that affiant is superintendent of public schools of Clay County, N. C., and is personally acquainted with L. H. Martin of said county and State and has known him all of his life; that affiant, shortly after July 19, 1938, learned of the wreck or collision in which said L. H. Martin was injured and knows from observation and talking with Mr. Martin as well as general information that Mr. Martin received serious and permanent injury as a result of said wreck and that the said L. H. Martin suffered great bodily pain therefrom being unable to work for a number of months; that affiant has recently observed the right arm and hand of the said L. H. Martin and knows that from said observation that the said L. H. Martin now has a considerable limitation in the motion and use of his right hand and arm and that it is plainly apparent from the observation of the said hand and arm and the stiffness or rigidity of the leaders and its general condition that the said L. H. Martin has sustained a considerable permanent injury therefrom; that affiant has from time to time talked to the said L. H. Martin and in the said conversation the said L. H. Martin stated that he suffers from the injury to his arm and also from injury to his neck, head, and back as a result of said collision; that affiant knows that the said L. H. Martin, prior to receiving said injuries was a strong and healthy man and made a comfortable living for himself and family through his physical labors and that affiant knows the said L. H. Martin to be a man of good character, highly respected in his community and county and also that the said L. H. Martin is a highly conscientious man; that the opinion of affiant is that the said L. H. Martin has been damaged in the sum of \$5,000 by reason of the injuries received both temporary and permanent on July 19, 1938.

ALLEN J. BELL.

Subscribed and sworn to before me this the 27th day of January, 1940.

[SEAL]

P. C. SCROGGS, *Notary Public*.

My commission expires June 17, 1941.

NORTH CAROLINA,
Cherokee County:

Grover Mauney, being first duly sworn, deposes and says that he is 48 years of age and a citizen and resident of Cherokee County, N. C.; that affiant is assistant engineer of tenth district and third division of State Highway and Public Works Commission of North Carolina, having supervisory duties over Clay County; that affiant is personally acquainted with L. H. Martin, of route 4, Hayesville, N. C., and knew the said L. H. Martin for several years prior to July 19, 1938,

having come into contact with the said L. H. Martin prior to said date in the performance of his duties; that affiant was advised of the collision on July 19, 1938, involving a State highway truck and a Civilian Conservation Corps ambulance on United States Highway No. 19, near Tipton, N. C., in which L. H. Martin was seriously injured and the Chevrolet highway truck in which the said Martin was riding was badly damaged; that affiant assisted in making the investigation and report to his superiors of said wreck, visited the scene of the collision, talked with the witnesses, attended the hearing before P. M. Reagan, justice of the peace in the criminal action of *State v. Julian Harrell*, and also attended the superior court of Cherokee County, N. C., when a true bill was returned against the said Julian Harrell, the driver of said ambulance involved in said action in which the said L. H. Martin was injured:

That affiant saw the said L. H. Martin from time to time following the receiving of said injuries and could observe that the said L. H. Martin suffered great pain therefrom; that the said L. H. Martin has received treatment over a long period of time for his said injuries and that the said injuries appear to be of a permanent nature, particularly to the right hand and arm; that the said L. H. Martin was unable to return to his work until on or about the 27th day of March 1939, at which time the said L. H. Martin was only assigned such work as he could perform owing to his injuries; that is, light work in which he did not have to use his right arm or hand or perform much physical labor, mostly just supervising some work; that affiant knows that the said L. H. Martin prior to receiving said injuries was a strong, healthy man, able to do a hard day's labor, handle and drive various types of road and other machinery; and that the said L. H. Martin in addition to his duties upon his job also owned and operated a farm near Hayesville, N. C.; that the War Department, as affiant is advised and informed, has paid the State highway and public works commission \$270 to cover the damages to said Chevrolet truck struck by the Civilian Conservation Corps ambulance driven by Julian Harrell on July 19, 1938, in which the said L. H. Martin was injured as a result of; that Garnet Galloway was the driver of the truck belonging to the said State highway and public works commission.

G. C. MAUNEY.

Subscribed and sworn to before me this the 14th day of February 1940.

[SEAL]

P. C. SCROGGS, *Notary Public*.

My commission expires June 17, 1941.



